

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

KARL SHACKELFORD	§	
v.	§	CIVIL ACTION NO. 6:07cv336
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Petitioner Karl Shackelford, proceeding *pro se*, filed this application for the writ of habeas corpus complaining of the legality of his confinement. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Shackelford was convicted in 2005 of driving while intoxicated, receiving a sentence of six years in prison. He says that the judgment of conviction was reversed on appeal, but TDCJ continues to hold him anyway.

After review of the pleadings, the Magistrate Judge issued a Report on September 10, 2007, recommending that the petition be dismissed. The documents which Shackelford submitted from the Court of Appeals show that his conviction was affirmed, not reversed. In addition, the Magistrate Judge determined that the statute of limitations had expired on Shackelford's claims.

Shackelford filed objections to the Magistrate Judge's Report on September 24, 2007. These objections do not address the fact that Shackelford's conviction was affirmed by the Court of Appeals, nor do they discuss the statute of limitations. Instead, Shackelford focuses on two motions which he filed in the Court of Appeals, which were motions asking the state appellate court to consider the trial court case and to reverse the trial court. As the Magistrate Judge explained, these

motions were passed for consideration along with the merits of the appeal, and were thus effectively denied when the conviction was affirmed. In his objections, Shackelford appears to argue that the motions were not expressly denied, so they had to have been “passed or granted.” As the Magistrate Judge stated, the motions were passed for consideration with the merits of the appeal, and effectively denied when the appeal of his case was rejected. Shackelford’s objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original petition, the Report of the Magistrate Judge, the Petitioner’s objections thereto, and all pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the objections of the Petitioner are without merit. It is accordingly

ORDERED that the Petitioner’s objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Karl Shackelford is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this action are hereby DENIED.

**So ORDERED and SIGNED this 18th day of October, 2007.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**